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EXAMINER

D AGOSTINO, PAUL ANTHONY

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

This responds to Applicant's Arguments/Remarks filed 4/22/2009. Claims 1-3, 8-9, and 14 have been amended. Claims 1-14 are pending in this application.

Response to Amendment

1. Applicant has amended the claims and asked that Examiner comment with particularity regarding the claim amendments. Examiner has already provided a detailed mapping of the claim limitations. As to Applicant's amendments, the changes are administrative, e.g., changing "first and second game programs" to -- a plurality of game programs --; "backup data storage" to -- different backup data storage --; "first condition detector" to -- game condition detector --; "autonomously writing" to -- automatically writing -- and so forth. These add some clarity but are not as helpful to understand the patentability of Applicant's claimed invention over the art of record. Examiner believes the scope of the claimed invention has not changed and so maintains the prior art and rejection. The prior art discloses that game condition data is saved automatically to different locations and is used by different players. Conversely, Applicant's response is unpersuasive as to why the prior art does not perform what is a common tracking and updating task in gaming to ensure realism and excitement for the player. It asserts but does not explain why the prior art fails to perform the claimed limitations that Examiner says it does.

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Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chocobo World - Final Fantasy 8 released July 7, 1999 in view of U.S. Patent No. 4,858,930 to Sato (Sato). The explanation found at

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<http://lffguides.telefra,q.qed.com/lff81walkthroughslchocoboworld.shtml> was published online on September 15, 2000.

In Reference to Claim 1

Chocobo World is disclosed to be played on a personal computer. Personal computers are well known in the art as able to play a plurality of games and in the case of Chocobo World share backup data of the plurality of games with each other. Briefly stated, Chocobo World is a game played in conjunction with Final Fantasy 8. A final fantasy player can begin playing with a Chicobo. The Chicobo will wander through Chocobo World collecting items. A player can direct Chicobo's movements or can allow Chicobo to play in the background of Final Fantasy 8. Chicobo will collect treasures and weapons among other things for the Final Fantasy 8 player to use while playing Final Fantasy 8.

Chocobo World discloses a game program data storage memory for storing game data during progress of a game into different backup data storage area (see cited website - "What is Chocobo World?"). A first game being Final Fantasy 8 and the second game being Chocobo World. The two games have memory allocated to them and be configured to store game state information (e.g., health, fuel, energy, weapons) and Final Fantasy 8 game player progress can be saved independently of Chocobo World (see "How to play").

A game operation controller is disclosed for instructing a start of a game by selecting any one of the first game program and the second game program and for

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controlling progress of the selected game (see "How to play" and "Move"). The controller is a standard keyboard with arrow keys.

A first {game} condition detector for determining whether or not a predetermined conditioned is accomplished in the progress of the game selected and instructed to be started by the game operation controller is disclosed (see "Moomba"). There are many conditions detected in Chocobo World. A first condition detector is Moomba giving Chicobo (and therefore the player) a new weapon enabling a recording of the game state data. When it is determined the condition is accomplished (one of ordinary skill in the art would know that this is accomplished by the triggering of a flag or script), a memory write controller for writing information relating to the predetermined condition to both of a backup data storing area associated with a first game and a backup data storing of at least one other game not selected by the game controller are provided (see "Importing

Chocobo World Items into FF8). When the weapon is given, a memory write controller writes the information into Final Fantasy 8 to a backup storage area at the time when the game state changes a predetermined condition to allow the weapon to be used in that game. The backup data storing area in the second game is updated to reflect the movement of the weapon and remove the weapon from the items collected list upon the accomplishment of the predetermined condition.

However, if Applicant disagrees with Examiner's interpretation of Chocobo World as to enabling a player to play a plurality of games stored on the game apparatus

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wherein backup memory storage contains a first and second storage area for backing up game data, then Sato teaches more explicitly these limitations.

Sato teaches of an apparatus and method (Figs. 1-2 and 9-10) enabling interaction with shared game data files in a game device ("Furthermore, if the commercial video game machine is so designed that the abilities of the characters which have been calculated and set in the respective home video games by a plurality of players can be separately input as the respective initial ability data prior to the start of the commercial video game, it is possible to play the game not only by a single player but also by a plurality of players while using the characters having the abilities grown by the respective players simultaneously in the commercial game space, thereby increasing the pleasure of the game" (Col. 2 Lines 65-68 and Col. 3 Lines 1-7).

Sato teaches of enabling a player to play a plurality of games stored (Fig. 1 "Commercial Game Program Memory" 32 and games: "(a) Role Playing Game" Col. 6 Line 66; "(b) Simulation Game" Col. 9 Line 20; and "(c) Drive Game" Col. 10 Line 9) on the game apparatus ("Commercial Video Game Machine" 30 with "Game Control Unit" 34) which stores information relating to conditions occurring during game play ("The ability data read/write circuit 16b is operated in accordance ... with a flow 3000 during the game" Col. 4 Lines 54-58) of at least one game (Fig. 1 "Ability Data" 24) into a backup data store ("Working Memory" 24) associated with each or one or more other games that are also stored on the game apparatus (Fig. 2 "Ability Data" 42-1, 42-2, etc); and

wherein a memory write controller automatically writes the information relating to the predetermined game condition at a time the first detector determined that the predetermined game condition is accomplished (Col. 2 Lines 65-68; Col. 3 Lines 1-7; and Col. 4 Lines 54-58) into both the first backup data storing area (Fig. 2 "Ability Data" 42-1 and 42-1) and the second backup data storing area {in distinct areas} of the memory regardless of which game program was started by the game controller (Fig. 2 demonstrates distinct areas 42-1 and 42-1; also distinct first and second distinct or back-up storage areas are Fig. 1 "Ability Data Storage Medium" 22 for each cartridge for each game and player so in sum, games are stored in one location in control of the single players "Ability Data" 22 and in another multi-player shared location "Ability Data" 42-1, 42-1, etc.).

Sato provides this system and method in order to provide a game system which expands the content of the home video game so that a commercial video game is capable of accepting a challenge of the player with a character having the ability enhanced in the home video game, thereby giving more satisfaction to the player (Col. 2 Lines 10-19 and Col. 5 Lines 45-52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the plurality of games, backup storage areas and shared ability data as taught by Sato into the teachings of Chocobo World - Final Fantasy 8 to provide a game system which expands the content of the home video game so that a commercial video game is capable of accepting a challenge of the player with a

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character having the ability enhanced in the home video game, thereby giving more satisfaction to the player.

In Reference to Claims 2-4

Chocobo World as modified by Sato discloses wherein the backup data storage memory includes a separate shared backup data storage area which is used to store information used in common by a plurality of different games (When the predetermined game condition is accomplished as disclosed in the rejection of Claim 1, the memory write controller writes the information to the backup data storage area of both games (see "Tutorial"). When the predetermined condition is accomplished as disclosed in the rejection of Claim 1, the memory write controller writes the information to the backup data storage area of both games (see "Tutorial"). Change generation information is defined in the specification as information relating to game t progress. A new weapon is progress in the game. This information is written into the new game so the weapon can be used in that game. The memory controller writes condition accomplishment information to the backup storage of one game and game progress information to the back up data of both games.

In Reference to Claim 5

Chocobo World provides a first condition detector as described. Final Fantasy 8 provides a second condition detector. If the detector has not determined a new weapon is available from Chocobo World, the weapon will not be provided to the player. If the

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detector has determined a new weapon is available, the weapon is provided. The controller then writes the information including game generation information to the various backup data storages as described above.

In Reference to Claim 6

When the predetermined condition is accomplished as disclosed in the rejection of claim 5, the memory write controller writes the information to the backup data storage area of both games (see "Tutorial") if Final Fantasy 8 has determined the condition has been accomplished.

In Reference to Claim 7

Chicobo is disclosed as being able to return to the Final Fantasy 8 world (see "Home"). This area provides a backup data storing area for storing backup data relating to both programs. Information is written to both programs.

In Reference to Claim 8

Chocobo World teaches a game apparatus that enables an operator to play a plurality of games and a method of sharing backup data of each of the plurality of games with each other. The game is played on a personal computer which is well known in the art for having a processor, a data storage memory, and several storing areas for respectively storing backup data for each of the games. The processor is used to determine whether or not a predetermined condition is accomplished during

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gameplay of the games in which gameplay has initiated (see "Importing items into FF8" and "Tutorial"). In this case, a first condition could be a weapon from Moomba (see "Moomba"). When it is determined the condition is accomplished, information relating to the condition is stored in both the backup data storing area of the started game, and the other game that has not been started. Chocobo World need not be started to import items into Final Fantasy 8. Chocobo also discloses saving gameplay conditions occurring during gameplay progress in which game is initiated for storage and use by one or more games in distinct storage areas for respectively storing backup data for each game (See rejection of Claim 1 and wherein Sato teaches of an equivalent system and method).

In Reference to Claim 9

Chocobo World teaches a backup writing control method in a game apparatus that enables an operator to play a plurality of games. The apparatus has the capacity to share backup data of each of the plurality of games with each other. It includes a personal computer having a data storage memory and a plurality of storing areas for respectively storing backup data for each of the plurality of games. (see Title, "Why would I want to play Chocobo World", "How to Play"). The game determines whether or not a predetermined condition is accomplished during game play progress in either of the games Chocobo World, or Final Fantasy 8 in which game play has started. When it is determined the predetermined condition is accomplished, the game writes information relating to the predetermined condition to both of the backup data storing areas of the

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games including the game which is not started. Chocobo World need not be started to import items into Final Fantasy 8.

Further, Sato teaches of an equivalent system and method to address any claimed deficiencies in Chocobo World. (See rejection of Claim1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the games and shared ability data as taught by Sato into the teachings of Chocobo World - Final Fantasy 8 to provide a game system which expands the content of the home video game so that a commercial video game is capable of accepting a challenge of the player with a character having the ability enhanced in the home video game, thereby giving more satisfaction to the player.

In Reference to Claim 10

Chocobo World is disclosed to be played on a personal computer. Personal computers are well known in the art as able to play a plurality of games and in the case of Chocobo World share backup, data of the plurality of games with each other.

Chocobo World discloses a data storage memory for storing a first game program and a second game program (see cited website -"What is Chocobo World?"). A writable and readable backup data storage memory having a first backup data storing area for storing backup data relating to the first game program and a second backup data storing area for storing data relating to the second game program is provided. Final Fantasy 8 game player progress can be saved independently of Chocobo World and vice versa (see "How to play"). A game operation controller is disclosed for instructing a

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start of a game by selecting any one of the first game program and the second game program and for controlling progress of the selected game (see "How to play" and "Move"). The controller is a standard keyboard with arrow keys. A first condition detector for determining whether or not a predetermined condition is accomplished in the progress of the game selected and instructed to be started by the game operation controller is disclosed (see "Moomba"). There are many conditions detected in Chocobo World. A first condition detector is Moomba giving Chicobo (and therefore the player) a new weapon. When it is determined the condition is accomplished, a memory write controller for writing information relating to the predetermined condition to both of a backup data storing area associated with a first game and a backup data storing of at least one other game not selected by the game controller are provided (see "Importing Chocobo World Items into FF8). When the weapon is given, a memory write controller writes the information into Final Fantasy 8 to a backup storage area to allow the weapon to be used in that game. The backup data storing area in the second game is written to update the movement of the weapon and remove the weapon from the items collected list. Chocobo World provides a first condition detector as described. Final Fantasy 8 provides a second condition detector. If the detector has not determined a new weapon is available from Chocobo World, the weapon will not be provided to the player. If the detector has determined a new weapon is available, the weapons are provided. The controller then writes the information including game generation information to the various backup data storages as described above.

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Further, Sato teaches of an equivalent system and method to address any claimed deficiencies in Chocobo World. (See rejection of Claim1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the games and shared ability data as taught by Sato into the teachings of Chocobo World - Final Fantasy 8 to provide a game system which expands the content of the home video game so that a commercial video game is capable of accepting a challenge of the player with a character having the ability enhanced in the home video game, thereby giving more satisfaction to the player.

In Reference to Claim 11

Chocobo World teaches a game apparatus that enables an operator to play a plurality of games and a method of sharing backup data of each of the plurality of games with each other. Chocobo World discloses a data storage memory for storing a first game program and a second game program (see cited website - "What is Chocobo World?"). A writable and readable backup data storage memory having a first backup data storing area for storing backup data relating to the first game program and a second backup data storing area for storing data relating to the second game program is provided. Final Fantasy 8 game player progress can be saved independently of Chocobo World and vice versa (see "How to play"). A memory write controller is provided for writing shared backup data information utilized in common to both the first and second game programs (see "Home").

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Further, Sato teaches of an equivalent system and method to address any claimed deficiencies in Chocobo World. (See rejection of Claim1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the games and shared ability data as taught by Sato into the teachings of Chocobo World - Final Fantasy 8 to provide a game system which expands the content of the home video game so that a commercial video game is capable of accepting a challenge of the player with a character having the ability enhanced in the home video game, thereby giving more satisfaction to the player.

In Reference to Claim 12

Chocobo world discloses a game operation controller is disclosed for instructing a start of a game by selecting any one of the first game program and the second game program and for controlling progress of the selected game (see "How to play" and "Move"). The controller is a standard, keyboard with arrow keys. Also disclosed is a condition detector as Moomba having a new weapon for Chicobo (and therefore the player). When it is determined the condition is accomplished, a memory write controller for writing information relating to the predetermined condition to both of a backup data storing area associated with a first game and a backup data storing of at least one other game not selected by the game controller are provided (see "Importing Chocobo World Items into FF8). When the weapon is given, a memory write controller writes the information into Final Fantasy 8 to a backup storage area to allow the weapon to be

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used in that game. The backup data storing area in the second game is written to update the movement of the sword and remove the sword from the items collected list.

In Reference to Claim 13

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chocobo World as disclosed above. Chocobo World teaches a game apparatus that enables an operator to play a plurality of games and a method of sharing backup data of each of the plurality of games with each other. Chocobo World discloses a data storage memory for storing a first game program and a second game program (see cited website -"What is Chocobo World?"). Further, a backup data storage medium having a first backup data storing area for storing backup data relating to the first program and a second backup data storing area for storing data relating to the second program are disclosed (Final Fantasy 8 is saved independently from Chocobo World.

It is therefore inherent, that is, it must necessarily be that each uses different areas for storing backup data unique to each game though there are instances when information is mutually shared. Even in the case of shared information, the information is stored separately.) A game operation controller is disclosed for instructing a start of a game by selecting any one of the first game program and the second game program and for controlling progress of the selected game (see "How to play" and "Move"). The controller is a standard keyboard with arrow keys. However, Chocobo World fails to disclose a computer program product, program instructions, and program instructions means for autonomously writing information upon determining that the predetermined

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condition is accomplished during gameplay of the game. The information relating to the predetermined condition is stored

However, one of ordinary skill in the art would recognize that a computer game would be constructed by programming code assembled in such a way as to implement the rules of the game and allow a player to play the game by making progress toward an objective. This ordinarily skilled artisan would further realize, a computer readable storage medium would be necessary to implement the code, and install the code on various computers. One of ordinary skill in the art would have little choice but to use program instructions through programming code and computer readable media to implement rules and functionality of the game at least at some level.

It would therefore be obvious to one of ordinary skill in the art at the time of the invention to include a computer program product embodied on a computer readable storage medium and program instructions for implementing the rules of the game such as whether or not a predetermined condition is accomplished during gameplay progress of any one of a first game program or a second game program is instructed to be started by a game operation controller. Further, the ordinarily skilled artisan would find it obvious at the time of the invention to employ program instruction means for writing upon determining that the predetermined condition is accomplished, information relating to the predetermined condition to both the backup data storing area of the game in which the condition was accomplished and the backup data of the other game that had not been started by the controller, which is essentially what Chocobo World incorporates.

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It would be obvious to the skilled artisan that program instruction means would be implemented to incorporate the functions of the game as described in the cited reference and the rejection of the remaining claims.

Alternatively, Sato teaches of an equivalent system and method to address any claimed deficiencies in Chocobo World. (See rejection of Claim1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the games and shared ability data as taught by Sato into the teachings of Chocobo World - Final Fantasy 8 to provide a game system which expands the content of the home video game so that a commercial video game is capable of accepting a challenge of the player with a character having the ability enhanced in the home video game, thereby giving more satisfaction to the player.

In Reference to Claim 14

Chocobo World teaches a game apparatus that enables an operator to play a plurality of games and a method of sharing backup data of each of the plurality of games with each other. Chocobo World discloses a data storage memory for storing a first game program and a second game program (see cited website - "What is Chocobo World?"). A writable and readable backup data storage memory having a first backup data storing area for storing backup data relating to the first game program and a second backup data storing area for storing data relating to the second game program is provided. Final Fantasy 8 game player progress can be saved independently of Chocobo World and vice Versa (see "How to play"). A memory write controller is

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provided for writing shared backup data information utilized in common to both the first and second game programs (see "Home").

Further, Sato teaches of an equivalent system and method to address any claimed deficiencies in Chocobo World. (See rejection of Claim1)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the games and shared ability data as taught by Sato into the teachings of Chocobo World - Final Fantasy 8 to provide a game system which expands the content of the home video game so that a commercial video game is capable of accepting a challenge of the player with a character having the ability enhanced in the home video game, thereby giving more satisfaction to the player.

Response to Arguments

6. Applicant argues (see Applicant's Arguments/Remarks pages 13-14) that Chocobo World alone or in combination with Sato fails to disclose a game condition detector and a memory controller which automatically writes information to first and second backup storage areas. Examiner respectfully disagrees and has provided as part of the rejection of claims an explanation of the prior art as it pertains, for example, to the tracking of weapons during game play to demonstrate the game condition and memory limitations of Applicant's claimed invention.

7. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon

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hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

9. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571)270-1992. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..

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11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on (571) 272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Supervisory Patent Examiner, Art Unit 3714

/Paul A. D'Agostino/
Examiner, Art Unit 3714